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CURRENT DECISIONS

AGENCY—WORKMEN'S COMPENSATION—COURSE OF EMPLOYMENT—FREE TRANSPORTATION OF RAILROAD EMPLOYEE.—The decedent, a flagman in the employ of the defendant railroad, at the termination of his actual work for the day, and while waiting on the station platform in order to take a train to his home, fell upon the tracks and was killed. He had been furnished a pass entitling him to ride free of charge upon the defendant's trains whenever he so desired. His dependents brought this action for compensation for his death. *Held*, that the compensation act did not apply, since the death did not arise out of and in the course of his employment. *Kowalek v. N. Y. Cons. Ry.* (1920) 229 N. Y. 489, 128 N. E. 888.

The prevailing rule is that an employee injured while going to or from work in a conveyance furnished by his employer for the purpose, as a part of the contract of employment, is entitled to compensation under the workmen's compensation acts. *Donovan's Case* (1914) 217 Mass. 76, 104 N. E. 431; *Sala v. Tobacco Co.* (1918) 93 Conn. 82, 105 Atl. 346; *contra*, *Nesbitt v. Foundry Co.* (1920, Minn.) 177 N. W. 131. But a distinction should be recognized between a conveyance provided as a part of the contract, and the mere privilege of free transportation on a public conveyance. *Dominguez v. Pendoia* (1920, Calif.) 188 Pac. 1025. This distinction was recognized in the principal case, which reversed the rule adopted by the appellate division in previous decisions. *Tallon v. Rapid Transit Co.* (1920, App. Div.) 184 N. Y. Supp. 588.

AGENCY—WORKMEN'S COMPENSATION—ILLEGAL EMPLOYMENT OF MINORS—APPLICABILITY OF THE ACT.—The New York Labor Law forbids the employment of a child under sixteen years of age in the operation of certain machines, and also the employment of children between the ages of fourteen and sixteen in any factory without their first obtaining employment certificates. The plaintiff, while employed by the defendant in violation of both of these provisions, received injuries for which he brought this common law action for damages. *Held*, that he could not recover, since his proper remedy was that provided by the workmen's compensation act. *Boyle v. Piano Co.* (1920) 193 App. Div. 408, 184 N. Y. Supp. 374.

The generally accepted rule seems to be that a minor illegally employed does not come within the provisions of the compensation acts. See (1919) 28 YALE LAW JOURNAL, 509; (1918) 31 HARV. L. REV. 803; L. R. A. 1918 F, 209, note. But it has been held in New York that a minor illegally employed may recover under the compensation act. *Ide. v. Faul & Timmins* (1917) 179 App. Div. 567, 166 N. Y. Supp. 858. The Labor Law, however, was designed to protect children incapable of protecting themselves, and it would seem just that an injured child should have the option of relying upon his contract of employment and seeking compensation, or of abrogating it entirely and suing for damages.

CONTRACTS—MUTUAL ASSENT AS AFFECTED BY UNILATERAL MISTAKE.—The plaintiff brought an action for a breach of a contract to sell certain chemicals. The chemical that the plaintiff ordered was worth \$30 a pound, while the defendant quoted it at \$10 a pound, thinking that what the plaintiff wanted was a powdered form, then worth about the latter price. The defendant offered to furnish the calcine form of the article, which the plaintiff refused to accept; and the defendant refused to supply the higher priced article. *Held*, (two judges *dissenting*) that the plaintiff should recover, since there was no evidence that there was any mutual mistake of the parties. *Independent Trading Co. v. Fougere & Co.* (1920) 192 App. Div. 686, 183 N. Y. Supp. 431.

See COMMENTS, *supra*, p. 506.